



94TH GENERAL ASSEMBLY
State of Illinois
2005 and 2006
SB2796

Introduced 1/20/2006, by Sen. Miguel del Valle

SYNOPSIS AS INTRODUCED:

105 ILCS 5/14-8.02 from Ch. 122, par. 14-8.02
105 ILCS 5/14-8.02a
105 ILCS 5/14-8.02b
105 ILCS 5/14-8.02c new
105 ILCS 5/14-8.02d new

Amends the Children with Disabilities Article of the School Code. Makes changes concerning the identification, evaluation, and placement of children; the impartial due process hearing procedure; the expedited hearing procedure; the selection, training, evaluation, and retention of hearing officers and other matters concerning hearing officers; and the evaluation of the impartial due process hearing system.

LRB094 16298 NHT 53104 b

FISCAL NOTE ACT
MAY APPLY

1 AN ACT concerning education.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The School Code is amended by changing Sections
5 14-8.02, 14-8.02a, and 14-8.02b and by adding Sections 14-8.02c
6 and 14-8.02d as follows:

7 (105 ILCS 5/14-8.02) (from Ch. 122, par. 14-8.02)

8 Sec. 14-8.02. Identification, Evaluation and Placement of
9 Children.

10 (a) The State Board of Education shall make rules under
11 which local school boards shall determine the eligibility of
12 children to receive special education. Such rules shall ensure
13 that a free appropriate public education be available to all
14 children with disabilities as defined in Section 14-1.02. The
15 State Board of Education shall require local school districts
16 to administer non-discriminatory procedures or tests to
17 limited English proficiency students coming from homes in which
18 a language other than English is used to determine their
19 eligibility to receive special education. The placement of low
20 English proficiency students in special education programs and
21 facilities shall be made in accordance with the test results
22 reflecting the student's linguistic, cultural and special
23 education needs. For purposes of determining the eligibility of
24 children the State Board of Education shall include in the
25 rules definitions of "case study", "staff conference",
26 "individualized educational program", and "qualified
27 specialist" appropriate to each category of children with
28 disabilities as defined in this Article. For purposes of
29 determining the eligibility of children from homes in which a
30 language other than English is used, the State Board of
31 Education, no later than September 1, 1993, shall include in
32 the rules definitions for "qualified bilingual specialists"

1 and "linguistically and culturally appropriate individualized
2 educational programs". For purposes of ~~in~~ this Section, as well
3 as Sections 14-8.02a, 14-8.02b, and 14-8.02c of this Code,
4 "parent" means a parent as defined in the federal Individuals
5 with Disabilities Education Act (20 U.S.C. 1401(19)) ~~includes a~~
6 ~~foster parent.~~

7 (b) No child shall be eligible for special education
8 facilities except with a carefully completed case study fully
9 reviewed by professional personnel in a multidisciplinary
10 staff conference and only upon the recommendation of qualified
11 specialists or a qualified bilingual specialist, if available.
12 At the conclusion of the multidisciplinary staff conference,
13 the parent ~~or guardian~~ of the child shall be given a copy of
14 the multidisciplinary conference summary report and
15 recommendations, which includes options considered, and be
16 informed of their right to obtain an independent educational
17 evaluation if they disagree with the evaluation findings
18 conducted or obtained by the school district. If the school
19 district's evaluation is shown to be inappropriate, the school
20 district shall reimburse the parent for the cost of the
21 independent evaluation. The State Board of Education shall,
22 with advice from the State Advisory Council on Education of
23 Children with Disabilities on the inclusion of specific
24 independent educational evaluators, prepare a list of
25 suggested independent educational evaluators. The State Board
26 of Education shall include on the list clinical psychologists
27 licensed pursuant to the Clinical Psychologist Licensing Act.
28 Such psychologists shall not be paid fees in excess of the
29 amount that would be received by a school psychologist for
30 performing the same services. The State Board of Education
31 shall supply school districts with such list and make the list
32 available to parents at their request. School districts shall
33 make the list available to parents at the time they are
34 informed of their right to obtain an independent educational
35 evaluation. However, the school district may initiate an
36 impartial due process hearing under this Section within 5 days

1 of any written parent ~~or guardian~~ request for an independent
2 educational evaluation to show that its evaluation is
3 appropriate. If the final decision is that the evaluation is
4 appropriate, the parent still has a right to an independent
5 educational evaluation, but not at public expense. An
6 independent educational evaluation at public expense must be
7 completed within 30 days of a parent ~~or guardian~~ written
8 request unless the school district initiates an impartial due
9 process hearing or the parent ~~or guardian~~ or school district
10 offers reasonable grounds to show that such 30 day time period
11 should be extended. If the due process hearing decision
12 indicates that the parent ~~or guardian~~ is entitled to an
13 independent educational evaluation, it must be completed
14 within 30 days of the decision unless the parent ~~or guardian~~ or
15 the school district offers reasonable grounds to show that such
16 30 day period should be extended. If a parent disagrees with
17 the summary report or recommendations of the multidisciplinary
18 conference or the findings of any educational evaluation which
19 results therefrom, the school district shall not proceed with a
20 placement based upon such evaluation and the child shall remain
21 in his or her regular classroom setting. No child shall be
22 eligible for admission to a special class for the educable
23 mentally disabled or for the trainable mentally disabled except
24 with a psychological evaluation and recommendation by a school
25 psychologist. Consent shall be obtained from the parent ~~or~~
26 ~~guardian~~ of a child before any evaluation is conducted. If
27 consent is not given by the parent ~~or guardian~~ or if the parent
28 ~~or guardian~~ disagrees with the findings of the evaluation, then
29 the school district may initiate an impartial due process
30 hearing under this Section. The school district may evaluate
31 the child if that is the decision resulting from the impartial
32 due process hearing and the decision is not appealed or if the
33 decision is affirmed on appeal. The determination of
34 eligibility shall be made within 60 ~~school~~ days from the date
35 of written parental consent ~~referral by school authorities for~~
36 ~~evaluation by the district or date of application for~~

1 ~~admittance by the parent or guardian of the child.~~ In those
2 instances when students are referred for evaluation with fewer
3 than 60 pupil attendance days left in the school year, the
4 eligibility determination shall be made prior to the first day
5 of the following school year. After a child has been determined
6 to be eligible for a special education class, such child must
7 be placed in the appropriate program pursuant to the
8 individualized educational program by or no later than the
9 beginning of the next school semester. The appropriate program
10 pursuant to the individualized educational program of students
11 whose native tongue is a language other than English shall
12 reflect the special education, cultural and linguistic needs.
13 No later than September 1, 1993, the State Board of Education
14 shall establish standards for the development, implementation
15 and monitoring of appropriate bilingual special individualized
16 educational programs. The State Board of Education shall
17 further incorporate appropriate monitoring procedures to
18 verify implementation of these standards. The district shall
19 indicate to the parent ~~or guardian~~ and the State Board of
20 Education the nature of the services the child will receive for
21 the regular school term while waiting placement in the
22 appropriate special education class.

23 If the child is deaf, hard of hearing, blind, or visually
24 impaired and he or she might be eligible to receive services
25 from the Illinois School for the Deaf or the Illinois School
26 for the Visually Impaired, the school district shall notify the
27 parents ~~or guardian~~, in writing, of the existence of these
28 schools and the services they provide and shall make a
29 reasonable effort to inform the parents ~~or guardian~~ of the
30 existence of other, local schools that provide similar services
31 and the services that these other schools provide. This
32 notification shall include without limitation information on
33 school services, school admissions criteria, and school
34 contact information.

35 If the student may be eligible to participate in the
36 Home-Based Support Services Program for Mentally Disabled

1 Adults authorized under the Developmental Disability and
2 Mental Disability Services Act upon becoming an adult, the
3 student's individualized education program shall include plans
4 for (i) determining the student's eligibility for those
5 home-based services, (ii) enrolling the student in the program
6 of home-based services, and (iii) developing a plan for the
7 student's most effective use of the home-based services after
8 the student becomes an adult and no longer receives special
9 educational services under this Article. The plans developed
10 under this paragraph shall include specific actions to be taken
11 by specified individuals, agencies, or officials.

12 (c) In the development of the individualized education
13 program for a student who is functionally blind, it shall be
14 presumed that proficiency in Braille reading and writing is
15 essential for the student's satisfactory educational progress.
16 For purposes of this subsection, the State Board of Education
17 shall determine the criteria for a student to be classified as
18 functionally blind. Students who are not currently identified
19 as functionally blind who are also entitled to Braille
20 instruction include: (i) those whose vision loss is so severe
21 that they are unable to read and write at a level comparable to
22 their peers solely through the use of vision, and (ii) those
23 who show evidence of progressive vision loss that may result in
24 functional blindness. Each student who is functionally blind
25 shall be entitled to Braille reading and writing instruction
26 that is sufficient to enable the student to communicate with
27 the same level of proficiency as other students of comparable
28 ability. Instruction should be provided to the extent that the
29 student is physically and cognitively able to use Braille.
30 Braille instruction may be used in combination with other
31 special education services appropriate to the student's
32 educational needs. The assessment of each student who is
33 functionally blind for the purpose of developing the student's
34 individualized education program shall include documentation
35 of the student's strengths and weaknesses in Braille skills.
36 Each person assisting in the development of the individualized

1 education program for a student who is functionally blind shall
2 receive information describing the benefits of Braille
3 instruction. The individualized education program for each
4 student who is functionally blind shall specify the appropriate
5 learning medium or media based on the assessment report.

6 (d) To the maximum extent appropriate, the placement shall
7 provide the child with the opportunity to be educated with
8 children who are not disabled; provided that children with
9 disabilities who are recommended to be placed into regular
10 education classrooms are provided with supplementary services
11 to assist the children with disabilities to benefit from the
12 regular classroom instruction and are included on the teacher's
13 regular education class register. Subject to the limitation of
14 the preceding sentence, placement in special classes, separate
15 schools or other removal of the disabled child from the regular
16 educational environment shall occur only when the nature of the
17 severity of the disability is such that education in the
18 regular classes with the use of supplementary aids and services
19 cannot be achieved satisfactorily. The placement of limited
20 English proficiency students with disabilities shall be in
21 non-restrictive environments which provide for integration
22 with non-disabled peers in bilingual classrooms. By January
23 1993 and annually thereafter, school districts shall report
24 data on students from non-English speaking backgrounds
25 receiving special education and related services in public and
26 private facilities as prescribed in Section 2-3.30. If there is
27 a disagreement between parties involved regarding the special
28 education placement of any child, either in-state or
29 out-of-state, the placement is subject to impartial due process
30 procedures described in Article 10 of the Rules and Regulations
31 to Govern the Administration and Operation of Special
32 Education.

33 (e) No child who comes from a home in which a language
34 other than English is the principal language used may be
35 assigned to any class or program under this Article until he
36 has been given, in the principal language used by the child and

1 used in his home, tests reasonably related to his cultural
2 environment. All testing and evaluation materials and
3 procedures utilized for evaluation and placement shall not be
4 linguistically, racially or culturally discriminatory.

5 (f) Nothing in this Article shall be construed to require
6 any child to undergo any physical examination or medical
7 treatment whose parents ~~or guardian~~ object thereto on the
8 grounds that such examination or treatment conflicts with his
9 religious beliefs.

10 (g) School boards or their designee shall provide to the
11 parents ~~or guardian~~ of a child prior written notice of any
12 decision (a) proposing to initiate or change, or (b) refusing
13 to initiate or change, the identification, evaluation, or
14 educational placement of the child or the provision of a free
15 appropriate public education to their child, and the reasons
16 therefor. Such written notification shall also inform the
17 parent ~~or guardian~~ of the opportunity to present complaints
18 with respect to any matter relating to the educational
19 placement of the student, or the provision of a free
20 appropriate public education and to have an impartial due
21 process hearing on the complaint. The notice shall inform the
22 parents ~~or guardian~~ in the parents' ~~or guardian's~~ native
23 language, unless it is clearly not feasible to do so, of their
24 rights and all procedures available pursuant to this Act and
25 federal law 94-142; it shall be the responsibility of the State
26 Superintendent to develop uniform notices setting forth the
27 procedures available under this Act and federal law 94-142 to
28 be used by all school boards. The notice shall also inform the
29 parents ~~or guardian~~ of the availability upon request of a list
30 of free or low-cost legal and other relevant services available
31 locally to assist parents ~~or guardians~~ in initiating an
32 impartial due process hearing. Any parent ~~or guardian~~ who is
33 deaf, or does not normally communicate using spoken English,
34 who participates in a meeting with a representative of a local
35 educational agency for the purposes of developing an
36 individualized educational program shall be entitled to the

1 services of an interpreter.

2 (h) (Blank). ~~A Level I due process hearing, hereinafter~~
3 ~~referred as the hearing, shall be conducted upon the request of~~
4 ~~the parents or guardian or local school board by an impartial~~
5 ~~hearing officer appointed as follows: If the request is made~~
6 ~~through the local school district, within 5 school days of~~
7 ~~receipt of the request, the local school district shall forward~~
8 ~~the request to the State Superintendent. Within 5 days after~~
9 ~~receiving this request of hearing, the State Board of Education~~
10 ~~shall provide a list of 5 prospective, impartial hearing~~
11 ~~officers. The State Board of Education, by rule or regulation,~~
12 ~~shall establish criteria for determining which persons can be~~
13 ~~included on such a list of prospective hearing officers. No one~~
14 ~~on the list may be a resident of the school district. No more~~
15 ~~than 2 of the 5 prospective hearing officers shall be gainfully~~
16 ~~employed by or administratively connected with any school~~
17 ~~district, or any joint agreement or cooperative program in~~
18 ~~which school districts participate. In addition, no more than 2~~
19 ~~of the 5 prospective hearing officers shall be gainfully~~
20 ~~employed by or administratively connected with private~~
21 ~~providers of special education services. The State Board of~~
22 ~~Education shall actively recruit applicants for hearing~~
23 ~~officer positions. The board and the parents or guardian or~~
24 ~~their legal representatives within 5 days shall alternately~~
25 ~~strike one name from the list until only one name remains. The~~
26 ~~parents or guardian shall have the right to proceed first with~~
27 ~~the striking. The per diem allowance for the hearing officer~~
28 ~~shall be established and paid by the State Board of Education.~~
29 ~~The hearing shall be closed to the public except that the~~
30 ~~parents or guardian may require that the hearing be public. The~~
31 ~~hearing officer shall not be an employee of the school~~
32 ~~district, an employee in any joint agreement or cooperative~~
33 ~~program in which the district participates, or any other agency~~
34 ~~or organization that is directly involved in the diagnosis,~~
35 ~~education or care of the student or the State Board of~~
36 ~~Education. All impartial hearing officers shall be adequately~~

1 ~~trained in federal and state law, rules and regulations and~~
2 ~~ease law regarding special education. The State Board of~~
3 ~~Education shall use resources from within and outside the~~
4 ~~agency for the purposes of conducting this training. The~~
5 ~~impartial hearing officer shall have the authority to require~~
6 ~~additional information or evidence where he or she deems it~~
7 ~~necessary to make a complete record and may order an~~
8 ~~independent evaluation of the child, the cost of said~~
9 ~~evaluation to be paid by the local school district. Such~~
10 ~~hearing shall not be considered adversary in nature, but shall~~
11 ~~be directed toward bringing out all facts necessary for the~~
12 ~~impartial hearing officer to render an informed decision. The~~
13 ~~State Board of Education shall, with the advice and approval of~~
14 ~~the Advisory Council on Education of Children with~~
15 ~~Disabilities, promulgate rules and regulations to establish~~
16 ~~the qualifications of the hearing officers and the rules and~~
17 ~~procedure for such hearings. The school district shall present~~
18 ~~evidence that the special education needs of the child have~~
19 ~~been appropriately identified and that the special education~~
20 ~~program and related services proposed to meet the needs of the~~
21 ~~child are adequate, appropriate and available. Any party to the~~
22 ~~hearing shall have the right to: (a) be represented by counsel~~
23 ~~and be accompanied and advised by individuals with special~~
24 ~~knowledge or training with respect to the problems of children~~
25 ~~with disabilities at the party's own expense; (b) present~~
26 ~~evidence and confront and cross examine witnesses; (c)~~
27 ~~prohibit the introduction of any evidence at the hearing that~~
28 ~~has not been disclosed to that party at least 5 days before the~~
29 ~~hearing; (d) obtain a written or electronic verbatim record of~~
30 ~~the hearing; (e) obtain written findings of fact and a written~~
31 ~~decision. The student shall be allowed to attend the hearing~~
32 ~~unless the hearing officer finds that attendance is not in the~~
33 ~~child's best interest or detrimental to the child. The hearing~~
34 ~~officer shall specify in the findings the reasons for denying~~
35 ~~attendance by the student. The hearing officer, or the State~~
36 ~~Superintendent in connection with State level hearings, may~~

1 ~~subpoena and compel the attendance of witnesses and the~~
2 ~~production of evidence reasonably necessary to the resolution~~
3 ~~of the hearing. The subpoena may be issued upon request of any~~
4 ~~party. The State Board of Education and the school board shall~~
5 ~~share equally the costs of providing a written or electronic~~
6 ~~record of the proceedings. Such record shall be transcribed and~~
7 ~~transmitted to the State Superintendent no later than 10 days~~
8 ~~after receipt of notice of appeal. The hearing officer shall~~
9 ~~render a decision and shall submit a copy of the findings of~~
10 ~~fact and decision to the parent or guardian and to the local~~
11 ~~school board within 10 school days after the conclusion of the~~
12 ~~hearing. The hearing officer may continue the hearing in order~~
13 ~~to obtain additional information, and, at the conclusion of the~~
14 ~~hearing, shall issue a decision based on the record which~~
15 ~~specifies the special education and related services which~~
16 ~~shall be provided to the child in accordance with the child's~~
17 ~~needs. The hearing officer's decision shall be binding upon the~~
18 ~~local school board and the parent unless such decision is~~
19 ~~appealed pursuant to the provisions of this Section.~~

20 (i) (Blank). ~~Any party aggrieved by the decision may appeal~~
21 ~~the hearing officer's decision to the State Board of Education~~
22 ~~and shall serve copies of the notice of such appeal on the~~
23 ~~State Superintendent and on all other parties. The review~~
24 ~~referred to in this Section shall be known as the Level II~~
25 ~~review. The State Board of Education shall provide a list of 5~~
26 ~~prospective, impartial reviewing officers. No reviewing~~
27 ~~officer shall be an employee of the State Board of Education or~~
28 ~~gainfully employed by or administratively connected with the~~
29 ~~school district, joint agreement or cooperative program which~~
30 ~~is a party to this review. Each person on the list shall be~~
31 ~~accredited by a national arbitration organization. The per diem~~
32 ~~allowance for the review officers shall be paid by the State~~
33 ~~Board of Education and may not exceed \$250. All reviewing~~
34 ~~officers on the list provided by the State Board of Education~~
35 ~~shall be trained in federal and state law, rules and~~
36 ~~regulations and case law regarding special education. The State~~

1 ~~Board of Education shall use resources from within and outside~~
2 ~~the agency for the purposes of conducting this training. No one~~
3 ~~on the list may be a resident of the school district. The board~~
4 ~~and the parents or guardian or other legal representatives~~
5 ~~within 5 days shall alternately strike one name from the list~~
6 ~~until only one name remains. The parents or guardian shall have~~
7 ~~the right to proceed first with the striking. The reviewing~~
8 ~~officer so selected shall conduct an impartial review of the~~
9 ~~Level I hearing and may issue subpoenas requiring the~~
10 ~~attendance of witnesses at such review. The parties to the~~
11 ~~appeal shall be afforded the opportunity to present oral~~
12 ~~argument and additional evidence at the review. Upon completion~~
13 ~~of the review the reviewing officer shall render a decision and~~
14 ~~shall provide a copy of the decision to all parties.~~

15 (j) (Blank). ~~No later than 30 days after receipt of notice~~
16 ~~of appeal, a final decision shall be reached and a copy mailed~~
17 ~~to each of the parties. A reviewing officer may grant specific~~
18 ~~extensions of time beyond the 30 day deadline at the request of~~
19 ~~either party. If a Level II hearing is convened the final~~
20 ~~decision of a Level II hearing officer shall occur no more than~~
21 ~~30 days following receipt of a notice of appeal, unless an~~
22 ~~extension of time is granted by the hearing officer at the~~
23 ~~request of either party. The State Board of Education shall~~
24 ~~establish rules and regulations delineating the standards to be~~
25 ~~used in determining whether the reviewing officer shall grant~~
26 ~~such extensions. Each hearing and each review involving oral~~
27 ~~argument must be conducted at a time and place which are~~
28 ~~reasonably convenient to the parents and the child involved.~~

29 (k) (Blank). ~~Any party aggrieved by the decision of the~~
30 ~~reviewing officer, including the parent or guardian, shall have~~
31 ~~the right to bring a civil action with respect to the complaint~~
32 ~~presented pursuant to this Section, which action may be brought~~
33 ~~in any circuit court of competent jurisdiction within 120 days~~
34 ~~after a copy of the decision is mailed to the party as provided~~
35 ~~in subsection (j). The civil action provided above shall not be~~
36 ~~exclusive of any rights or causes of action otherwise~~

1 available. The commencement of a civil action under subsection
2 ~~(k) of this Section shall operate as a supersedeas. In any~~
3 ~~action brought under this Section the court shall receive the~~
4 ~~records of the administrative proceedings, shall hear~~
5 ~~additional evidence at the request of a party, and basing its~~
6 ~~decision on the preponderance of the evidence shall grant such~~
7 ~~relief as the court determines is appropriate. In any instance~~
8 ~~where a school district willfully disregards applicable~~
9 ~~regulations or statutes regarding a child covered by this~~
10 ~~Article, and which disregard has been detrimental to the child,~~
11 ~~the school district shall be liable for any reasonable~~
12 ~~attorney's fees incurred by the parent or guardian in~~
13 ~~connection with proceedings under this Section.~~

14 (l) (Blank). ~~During the pendency of any proceedings~~
15 ~~conducted pursuant to this Section, unless the State~~
16 ~~Superintendent of Education, or the school district and the~~
17 ~~parents or guardian otherwise agree, the student shall remain~~
18 ~~in the then current educational placement of such student, or~~
19 ~~if applying for initial admission to the school district,~~
20 ~~shall, with the consent of the parents or guardian, be placed~~
21 ~~in the school district program until all such proceedings have~~
22 ~~been completed. The costs for any special education and related~~
23 ~~services or placement incurred following 60 school days after~~
24 ~~the initial request for evaluation shall be borne by the school~~
25 ~~district if such services or placement are in accordance with~~
26 ~~the final determination as to the special education and related~~
27 ~~services or placement which must be provided to the child,~~
28 ~~provided however that in said 60 day period there have been no~~
29 ~~delays caused by the child's parent or guardian.~~

30 (m) (Blank). ~~Whenever (i) the parents or guardian of a~~
31 ~~child of the type described in Section 14-1.02 are not known or~~
32 ~~are unavailable or (ii) the child is a ward of the State~~
33 ~~residing in a residential facility, a person shall be assigned~~
34 ~~to serve as surrogate parent for the child in matters relating~~
35 ~~to the identification, evaluation, and educational placement~~
36 ~~of the child and the provision of a free appropriate public~~

1 ~~education to the child. Surrogate parents shall be assigned by~~
2 ~~the State Superintendent of Education. The State Board of~~
3 ~~Education shall promulgate rules and regulations establishing~~
4 ~~qualifications of such persons and their responsibilities and~~
5 ~~the procedures to be followed in making such assignments. Such~~
6 ~~surrogate parents shall not be employees of the school~~
7 ~~district, an agency created by joint agreement under Section~~
8 ~~10-22.31, an agency involved in the education or care of the~~
9 ~~student, or the State Board of Education. For a child who is a~~
10 ~~ward of the State residing in a residential facility, the~~
11 ~~surrogate parent may be an employee of a nonpublic agency that~~
12 ~~provides only non-educational care. Services of any person~~
13 ~~assigned as surrogate parent shall terminate if the parent or~~
14 ~~guardian becomes available unless otherwise requested by the~~
15 ~~parents or guardian. The assignment of a person as surrogate~~
16 ~~parent at no time supersedes, terminates, or suspends the~~
17 ~~parents' or guardian's legal authority relative to the child.~~
18 ~~Any person participating in good faith as surrogate parent on~~
19 ~~behalf of the child before school officials or a hearing~~
20 ~~officer shall have immunity from civil or criminal liability~~
21 ~~that otherwise might result by reason of such participation,~~
22 ~~except in cases of willful and wanton misconduct.~~

23 (n) (Blank). ~~At all stages of the hearing the hearing~~
24 ~~officer shall require that interpreters be made available by~~
25 ~~the local school district for persons who are deaf or for~~
26 ~~persons whose normally spoken language is other than English.~~

27 (o) (Blank). ~~Whenever a person refuses to comply with any~~
28 ~~subpoena issued under this Section, the circuit court of the~~
29 ~~county in which such hearing is pending, on application of the~~
30 ~~State Superintendent of Education or the party who requested~~
31 ~~issuance of the subpoena may compel obedience by attachment~~
32 ~~proceedings as for contempt, as in a case of disobedience of~~
33 ~~the requirements of a subpoena from such court for refusal to~~
34 ~~testify therein.~~

35 (Source: P.A. 93-282, eff. 7-22-03; 94-376, eff. 7-29-05.)

1 (105 ILCS 5/14-8.02a)

2 Sec. 14-8.02a. Impartial due process hearing; civil
3 action.

4 (a) This Section ~~(rather than the impartial due process~~
5 ~~procedures of subsections (h) through (o) of Section 14-8.02,~~
6 ~~which shall continue to apply only to those impartial due~~
7 ~~process hearings that are requested under this Article before~~
8 ~~July 1, 1997)~~ shall apply to all impartial due process hearings
9 requested on or after July 1, 2005 ~~1997~~. Impartial due process
10 hearings requested before July 1, 2005 shall be governed by the
11 rules described in Public Act 89-652.

12 (a-5) For purposes of this Section and Section 14-8.02b of
13 this Code, days shall be computed in accordance with Section
14 1.1 of the Statute on Statutes.

15 (b) The State Board of Education shall establish an
16 impartial due process hearing system, ~~including a corps of~~
17 ~~hearing officers,~~ in accordance with this Section and may
18 ~~shall,~~ with the advice and approval of the Advisory Council on
19 Education of Children with Disabilities, promulgate rules and
20 regulations consistent with this Section to establish ~~the~~
21 ~~qualifications of hearing officers and~~ the rules and procedures
22 for due process hearings. ~~The State Board of Education shall~~
23 ~~recruit candidates for due process hearing officers who meet~~
24 ~~the criteria set forth in this Section. Candidates shall be~~
25 ~~screened by a 7-member Screening Committee consisting of the~~
26 ~~following: the Attorney General, or his or her designee; the~~
27 ~~State Superintendent of Education, or his or her designee; 3~~
28 ~~members appointed by the State Superintendent of Education, one~~
29 ~~of whom shall be a parent of a student eligible for special~~
30 ~~education, another of whom shall be a director of special~~
31 ~~education for an Illinois school district or special education~~
32 ~~joint agreement, and the other of whom shall be an adult with a~~
33 ~~disability; and 2 members appointed by the Attorney General,~~
34 ~~one of whom shall be a parent of a student eligible for special~~
35 ~~education and the other of whom shall be an experienced special~~
36 ~~education hearing officer who is not a candidate for~~

1 ~~appointment under this Section. The members of the Screening~~
2 ~~Committee shall be appointed no later than 60 days following~~
3 ~~the effective date of this amendatory Act of 1996. The~~
4 ~~chairperson of the Advisory Council on Education of Children~~
5 ~~with Disabilities or his or her designee shall serve on the~~
6 ~~Screening Committee as an ex officio non voting member. Three~~
7 ~~members of the Screening Committee shall be appointed for~~
8 ~~initial terms of 2 years, and 4 members shall be appointed for~~
9 ~~initial terms of 3 years, by using a lottery system. Subsequent~~
10 ~~appointments and reappointments shall be for terms for 3 years.~~
11 ~~The Screening Committee shall elect a chairperson from among~~
12 ~~its voting members. Members of the Screening Committee shall~~
13 ~~serve without compensation but shall be reimbursed by the State~~
14 ~~Board of Education for their expenses. The Screening Committee~~
15 ~~shall review applications and supporting information,~~
16 ~~interview candidates, and recommend applicants to the Advisory~~
17 ~~Council on Education of Children with Disabilities based upon~~
18 ~~objective criteria it develops and makes available to the~~
19 ~~public. The number of candidates recommended shall equal 150%~~
20 ~~of the number deemed necessary by the State Board of Education.~~

21 (c) (Blank). ~~The application process shall require each~~
22 ~~applicant to provide a comprehensive disclosure of his or her~~
23 ~~professional background and work experience. Applicants must~~
24 ~~hold at least a masters level degree, a juris doctor degree, or~~
25 ~~a bachelors degree with relevant experience. Current employees~~
26 ~~of the State Board of Education, local school districts,~~
27 ~~special education cooperatives, regional service areas or~~
28 ~~centers, regional educational cooperatives, state operated~~
29 ~~elementary and secondary schools, or private providers of~~
30 ~~special education facilities or programs shall be disqualified~~
31 ~~from serving as impartial due process hearing officers. Nothing~~
32 ~~in this Section shall be construed to prohibit retired school~~
33 ~~personnel and part-time contractual school personnel who serve~~
34 ~~in a consulting capacity from serving as hearing officers.~~
35 ~~Applications by individuals on the State Board of Education's~~
36 ~~list of eligible Level I due process hearing officers or Level~~

1 ~~II review officers when the initial recruitment of due process~~
2 ~~hearing officers is conducted under this Section shall be~~
3 ~~considered if they meet the qualifications under this~~
4 ~~subsection.~~

5 (d) (Blank). ~~The State Board of Education shall, through a~~
6 ~~competitive application process, enter into a contract with an~~
7 ~~outside entity to establish and conduct mandatory training~~
8 ~~programs for impartial due process hearing officers and an~~
9 ~~annual evaluation of each impartial due process hearing officer~~
10 ~~that shall include a written evaluation report. The invitation~~
11 ~~for applications shall set forth minimum qualifications for~~
12 ~~eligible applicants. Each contract under this subsection may be~~
13 ~~renewed on an annual basis subject to appropriations. The State~~
14 ~~Board of Education shall conduct a new competitive application~~
15 ~~process at least once every 3 years after the initial contract~~
16 ~~is granted. The Screening Committee established pursuant to~~
17 ~~subsection (b) of this Section shall review the training~~
18 ~~proposals and forward them, with recommendations in rank order,~~
19 ~~to the State Board of Education. All impartial hearing officer~~
20 ~~candidates recommended to the Advisory Council on Education of~~
21 ~~Children with Disabilities shall successfully complete initial~~
22 ~~and all follow up trainings, as established by the contract~~
23 ~~between the State Board of Education and the training entity,~~
24 ~~in order to be eligible to serve as an impartial due process~~
25 ~~hearing officer. The training curriculum shall include, at a~~
26 ~~minimum, instruction in federal and State law, rules, and~~
27 ~~regulations, federal regulatory interpretations and court~~
28 ~~decisions regarding special education and relevant general~~
29 ~~education issues, diagnostic procedures, information about~~
30 ~~disabilities, and techniques for conducting effective and~~
31 ~~impartial hearings, including order of presentation. The~~
32 ~~training shall be conducted in an unbiased manner by education~~
33 ~~and legal experts, including qualified individuals from~~
34 ~~outside the public education system. Upon the completion of~~
35 ~~initial impartial due process hearing officer training, the~~
36 ~~Advisory Council on Education of Children with Disabilities,~~

1 ~~applying objective selection criteria it has developed and made~~
2 ~~available to the public, shall go into executive session and~~
3 ~~select the number of active impartial due process hearing~~
4 ~~officers deemed necessary by the State Board of Education from~~
5 ~~those candidates who have successfully completed the initial~~
6 ~~training. Fifty percent of the impartial due process hearing~~
7 ~~officers appointed shall serve initial terms of 2 years, and~~
8 ~~the remaining 50% shall serve initial terms of one year, such~~
9 ~~terms to be determined by using a lottery system. After the~~
10 ~~initial term all reappointments shall be for a term of 2 years.~~
11 ~~The Screening Committee, based on its objective selection~~
12 ~~criteria and the annual evaluation reports prepared by the~~
13 ~~training entity, shall recommend whether the hearing officers~~
14 ~~whose terms are expiring should be reappointed and shall~~
15 ~~transmit its recommendations to the State Board of Education.~~
16 ~~If, at any time, the State Board of Education, with the advice~~
17 ~~of the Advisory Council on Education of Children with~~
18 ~~Disabilities, determines that additional hearing officers are~~
19 ~~needed, the hearing officer selection process described in this~~
20 ~~Section shall be reopened to select the number of additional~~
21 ~~hearing officers deemed necessary by the State Board of~~
22 ~~Education.~~

23 ~~Impartial due process hearing officers shall receive a base~~
24 ~~annual stipend and per diem allowance for each hearing at a~~
25 ~~rate established by the State Board of Education.~~

26 ~~The State Board of Education shall provide impartial due~~
27 ~~process hearing officers with access to relevant court~~
28 ~~decisions, impartial hearing officer decisions with~~
29 ~~child specific identifying information deleted, statutory and~~
30 ~~regulatory changes, and federal regulatory interpretations.~~
31 ~~The State Board of Education shall index and maintain a~~
32 ~~reporting system of impartial due process hearing decisions and~~
33 ~~shall make such decisions available for review by the public~~
34 ~~after deleting child-specific identifying information.~~

35 ~~(e) (Blank). An impartial due process hearing officer shall~~
36 ~~be terminated by the State Board of Education for just cause~~

1 ~~if, after written notice is provided, appropriate timely~~
2 ~~corrective action is not taken. For purposes of this subsection~~
3 ~~just cause shall be (1) failure or refusal to accept assigned~~
4 ~~cases without good cause; (2) failure or refusal to fulfill~~
5 ~~duties as a hearing officer in a timely manner; (3) consistent~~
6 ~~disregard for applicable laws and regulations in the conduct of~~
7 ~~hearings; (4) consistent failure to conduct himself or herself~~
8 ~~in a patient, dignified, and courteous manner to parties,~~
9 ~~witnesses, counsel, and other participants in hearings; (5)~~
10 ~~failure to accord parties or their representatives a full and~~
11 ~~fair opportunity to be heard in matters coming before him or~~
12 ~~her; (6) violating applicable laws regarding privacy and~~
13 ~~confidentiality of records or information; (7) manifesting, by~~
14 ~~words or conduct, bias or prejudice based upon race, sex,~~
15 ~~religion, disability, or national origin; (8) failure to recuse~~
16 ~~himself or herself from a hearing in which he or she has a~~
17 ~~personal, professional, or financial conflict of interest~~
18 ~~which he or she knew or should have known existed at any time~~
19 ~~prior to or during the hearing; (9) conviction in any~~
20 ~~jurisdiction of any felony or of a misdemeanor involving moral~~
21 ~~turpitude; and (10) falsification of a material fact on his or~~
22 ~~her application to serve as a due process hearing officer. In~~
23 ~~addition, an impartial hearing officer who, as a result of~~
24 ~~events occurring after appointment, no longer meets the minimum~~
25 ~~requirements set forth in this Section, shall be disqualified~~
26 ~~to complete the balance of his or her contract term.~~

27 ~~The State Board of Education shall monitor, review, and~~
28 ~~evaluate the impartial due process hearing system on a regular~~
29 ~~basis by a process that includes a review of written decisions~~
30 ~~and evaluations by participants in impartial due process~~
31 ~~hearings and their representatives. The State Board of~~
32 ~~Education shall prepare an annual written report no later than~~
33 ~~July 1 of each year, beginning in 1998, evaluating the~~
34 ~~impartial due process hearing system. The reports shall be~~
35 ~~submitted to the members of the State Board of Education, the~~
36 ~~State Superintendent of Education, the Advisory Council on~~

1 ~~Education of Children with Disabilities, and the Screening~~
2 ~~Committee and shall be made available to the public.~~

3 ~~The training entity under subsection (d) shall conduct~~
4 ~~annual evaluations of each hearing officer and shall prepare~~
5 ~~written evaluation reports to be provided to the Screening~~
6 ~~Committee for its consideration in the reappointment process.~~
7 ~~The evaluation process shall include a review of written~~
8 ~~decisions and evaluations by participants in impartial due~~
9 ~~process hearings and their representatives. Each hearing~~
10 ~~officer shall be provided with a copy of his or her evaluation~~
11 ~~report and shall have an opportunity to review the report with~~
12 ~~the training entity and submit written comments.~~

13 (f) An impartial due process hearing shall be convened upon
14 the request of a parent ~~or guardian~~, student if at least 18
15 years of age or emancipated, or a school district. A school
16 district shall make a request in writing to the State Board of
17 Education and promptly mail a copy of the request to the
18 parents ~~or guardian~~ of the student at their last known address.
19 The request shall be filed no more than 2 years following the
20 date the person or school district knew or should have known of
21 the event or events forming the basis for the request. The
22 request shall, at a minimum, contain all of the following:

23 (1) The name of the student, the address of the
24 student's residence, and the name of the school the student
25 is attending.

26 (2) In the case of homeless children (as defined under
27 the federal McKinney-Vento Homeless Assistance Act (42
28 U.S.C. 11434a(2)), available contact information for the
29 student and the name of the school the student is
30 attending.

31 (3) A description of the nature of the problem relating
32 to the actual or proposed placement, identification,
33 services, or evaluation of the student, including facts
34 relating to the problem.

35 (4) A proposed resolution of the problem to the extent
36 known and available to the party at the time.

1 A request made by the parent, ~~guardian,~~ or student shall be
2 made in writing to the superintendent of the school district in
3 which the student resides, who shall forward the request to the
4 State Board of Education within 5 days of receipt of the
5 request.

6 (f-5) Within 3 5 days after receipt of the hearing request,
7 the State Board of Education shall appoint a due process
8 hearing officer using a rotating appointment system and shall
9 notify the hearing officer of his or her appointment.

10 For a school district other than a school district located
11 in a municipality having a population exceeding 500,000, a
12 hearing officer who is a current resident of the school
13 district, special education cooperative, or other public

14 entity involved in the hearing shall recuse himself or herself.
15 A hearing officer who is a former employee of the school
16 district, special education cooperative, or other public
17 entity involved in the hearing shall immediately disclose the
18 former employment to the parties and shall recuse himself or
19 herself, unless the parties otherwise agree in writing. No

20 ~~person who is an employee of a school district that is involved~~
21 ~~in the education or care of the student shall conduct the~~
22 ~~hearing.~~ A hearing officer having a personal or professional

23 interest that would conflict with his or her objectivity in the
24 hearing shall disclose the conflict to the parties and shall
25 recuse himself or herself unless the parties otherwise agree in
26 writing so notify the State Board of Education and shall be

27 ~~replaced by the next scheduled impartial due process hearing~~
28 ~~officer under the rotation system.~~ For purposes of this

29 subsection an assigned hearing officer shall be considered to
30 have a conflict of interest if, at any time prior to the
31 issuance of his or her written decision, he or she knows or
32 should know that he or she may receive remuneration from a
33 party to the hearing within 3 years following the conclusion of
34 the due process hearing.

35 A party to a due process hearing shall be permitted one
36 substitution of hearing officer as a matter of right, in

1 accordance with procedures established by the rules adopted by
2 the State Board of Education under this Section. The State
3 Board of Education shall randomly select and appoint another
4 hearing officer within 3 ~~5~~ days after receiving notice that the
5 appointed hearing officer is ineligible to serve or upon
6 receiving a proper request for substitution of hearing officer.
7 If a party withdraws its request for a due process hearing
8 after a hearing officer has been appointed, that hearing
9 officer shall retain jurisdiction over a subsequent hearing
10 that involves the same parties and is requested within one year
11 from the date of withdrawal of the previous request, unless
12 that hearing officer is unavailable.

13 ~~A former employee or current resident of the school~~
14 ~~district, special education cooperative, or other public~~
15 ~~entity involved in the due process hearing shall recuse himself~~
16 ~~or herself. A hearing officer shall disclose any actual or~~
17 ~~potential conflicts of interests to the parties upon learning~~
18 ~~of those conflicts. Any party may raise facts that constitute a~~
19 ~~conflict of interest for the hearing officer at any time before~~
20 ~~or during the hearing and may move for recusal.~~

21 ~~For purposes of this Section, "days" shall be computed in~~
22 ~~accordance with Section 1.11 of the Statute on Statutes.~~

23 (g) Impartial due process hearings shall be conducted
24 pursuant to this Section and any rules and regulations
25 promulgated by the State Board of Education consistent with
26 this Section and other governing laws and regulations. The
27 hearing shall address only those issues properly raised in the
28 hearing request under subsection (f) of this Section. The
29 hearing shall be closed to the public unless the parents ~~or~~
30 ~~guardian~~ request that the hearing be open to the public. The
31 parents ~~or guardian~~ involved in the hearing shall have the
32 right to have the student who is the subject of the hearing
33 present. The hearing shall be held at a time and place which
34 are reasonably convenient to the parties involved. Upon the
35 request of a party, the hearing officer shall hold the hearing
36 at a location neutral to the parties if the hearing officer

1 determines that there is no cost for securing the use of the
2 neutral location. Once appointed, the impartial due process
3 hearing officer shall not communicate with the State Board of
4 Education or its employees concerning the hearing, except that,
5 where circumstances require, communications for administrative
6 purposes that do not deal with substantive or procedural
7 matters or issues on the merits are authorized, provided that
8 the hearing officer promptly notifies all parties of the
9 substance of the communication as a matter of record.

10 (g-5) Unless the school district has previously provided
11 prior written notice to the parent or student regarding the
12 subject matter of the hearing request, the school district
13 shall, within 10 days after receiving a hearing request
14 initiated by a parent or student provide a written response to
15 the request that shall include all of the following:

16 (1) An explanation of why the school district proposed
17 or refused to take the action or actions described in the
18 hearing request.

19 (2) A description of other options the IEP team
20 considered and the reasons why those options were rejected.

21 (3) A description of each evaluation procedure,
22 assessment, record, report, or other evidence the school
23 district used as the basis for the proposed or refused
24 action or actions.

25 (4) A description of the factors that are or were
26 relevant to the school district's proposed or refused
27 action or actions.

28 (g-10) When the hearing request has been initiated by a
29 school district, within 10 days after receiving the request,
30 the parent or student shall provide the school district with a
31 response that specifically addresses the issues raised in the
32 school district's hearing request. The parent's or student's
33 response shall be provided in writing, unless he or she is
34 illiterate or has a disability that prevents him or her from
35 providing a written response. The parent's or student's
36 response may be provided in his or her native language, if

1 other than English. In the event that illiteracy or another
2 disabling condition prevents the parent or student from
3 providing a written response, the school district shall assist
4 the parent or student in providing the written response.

5 (g-15) Within 15 days after receiving notice of the hearing
6 request, the non-requesting party may challenge the
7 sufficiency of the request by submitting its challenge in
8 writing to the hearing officer. Within 5 days after receiving
9 the challenge to the sufficiency of the request, the hearing
10 officer shall issue a determination of the challenge in writing
11 to the parties. In the event that the hearing officer upholds
12 the challenge, the party who requested the hearing may, with
13 the consent of the non-requesting party or with leave of the
14 hearing officer, file an amended request. An amended request
15 shall be filed by the date determined by the hearing officer,
16 but in no event any later than 5 days prior to the date of the
17 hearing. If the amended request raises issues that were not
18 part of the initial request, the parties shall be permitted to
19 re-initiate the resolution meeting described in subsection
20 (g-20) of this Section or State-sponsored mediation in place of
21 the resolution meeting, as described in subsection (g-25) of
22 this Section.

23 (g-20) Within 15 days after receiving a request for a
24 hearing from a parent or student or, in the event that the
25 school district requests a hearing, within 15 days after
26 initiating the request, the school district shall convene a
27 resolution meeting with the parent and relevant members of the
28 IEP team who have specific knowledge of the facts contained in
29 the request for the purpose of resolving the problem that
30 resulted in the request. The resolution meeting shall include a
31 representative of the school district who has decision-making
32 authority on behalf of the school district. Unless the parent
33 is accompanied by an attorney at the resolution meeting, the
34 school district may not include an attorney representing the
35 school district.

36 The resolution meeting may not be waived unless agreed to

1 in writing by the school district and the parent or student or
2 the parent or student and the school district agree in writing
3 to utilize mediation in place of the resolution meeting. If
4 either party fails to cooperate in the scheduling or convening
5 of the resolution meeting, the hearing officer may order an
6 extension of the timeline for completion of the resolution
7 meeting or, upon the motion of a party, order the dismissal of
8 the hearing request or the granting of all relief set forth in
9 the request, as appropriate.

10 In the event that the school district and the parent or
11 student agree to a resolution of the problem that resulted in
12 the hearing request, the terms of the resolution shall be
13 committed to writing and signed by the parent or student and
14 the representative of the school district with decision-making
15 authority. The agreement shall be legally binding and shall be
16 enforceable in any State or federal court of competent
17 jurisdiction. In the event that the parties utilize the
18 resolution meeting process, the resolution meeting shall
19 continue until no later than the 30th day following the receipt
20 of the hearing request by the non-requesting party (or as
21 properly extended by order of the hearing officer) to resolve
22 the issues underlying the request, at which time the timeline
23 for completion of the impartial due process hearing shall
24 commence. The State Board of Education may, by rule, establish
25 additional procedures for the conduct of resolution meetings.

26 (g-25) If mutually agreed to in writing, the parties to a
27 hearing request may request State-sponsored mediation as a
28 substitute for the resolution meeting described in subsection
29 (g-20) of this Section or may utilize mediation at the close of
30 the resolution meeting if all issues underlying the hearing
31 request have not been resolved through the resolution meeting.

32 (g-30) If mutually agreed to in writing, the parties to a
33 hearing request may waive the resolution meeting described in
34 subsection (g-20) of this Section. Upon signing a written
35 agreement to waive the resolution meeting, the parties shall be
36 required to forward the written waiver to the hearing officer

1 appointed to the case within 2 business days following the
2 signing of the waiver by the parties. The timeline for the
3 impartial due process hearing shall commence on the date of the
4 signing of the waiver by the parties.

5 (g-35) The timeline for completing the impartial due
6 process hearing shall be initiated upon the occurrence of any
7 one of the following events:

8 (1) The unsuccessful completion of the resolution
9 meeting as described in subsection (g-20) of this Section.

10 (2) The mutual agreement of the parties to waive the
11 resolution meeting as described in subsection (g-25) or
12 (g-30) of this Section.

13 Upon the occurrence of either of these events, the timeline set
14 forth in subsection (g-45) of this Section shall apply.

15 (g-40) The hearing officer shall convene a prehearing
16 conference no later than 14 days before the scheduled date for
17 the due process hearing for the general purpose of aiding in
18 the fair, orderly, and expeditious conduct of the hearing. The
19 hearing officer shall provide the parties with written notice
20 of the prehearing conference at least 7 ~~10~~ days in advance of
21 the conference. The written notice shall require the parties to
22 notify the hearing officer by a date certain whether they
23 intend to participate in the prehearing conference. The hearing
24 officer may conduct the prehearing conference in person or by
25 telephone. Each party shall ~~disclose~~ at the prehearing
26 conference (1) disclose whether it is represented by legal
27 counsel or intends to retain legal counsel; (2) clarify ~~the~~
28 matters it believes to be in dispute in the case and the
29 specific relief being sought; (3) disclose whether there are
30 any additional evaluations for the student that it intends to
31 introduce into the hearing record that have not been previously
32 disclosed to the other parties; (4) disclose a list of all
33 documents it intends to introduce into the hearing record,
34 including the date and a brief description of each document;
35 and (5) disclose the names of all witnesses it intends to call
36 to testify at the hearing. The hearing officer shall specify

1 the order of presentation to be used at the hearing. If the
2 prehearing conference is held by telephone, the parties shall
3 transmit the information required in this paragraph in such a
4 manner that it is available to all parties at the time of the
5 prehearing conference. The State Board of Education may ~~shall~~,
6 by rule, establish additional procedures for the conduct of
7 prehearing conferences.

8 (g-45) The impartial due process hearing officer shall not
9 initiate or participate in any ex parte communications with the
10 parties, except to arrange the date, time, and location of the
11 prehearing conference, ~~and~~ due process hearing, or other status
12 conferences convened at the discretion of the hearing officer
13 and to receive confirmation of whether a party intends to
14 participate in the prehearing conference.

15 (g-50) The parties shall disclose and provide to each other
16 any evidence which they intend to submit into the hearing
17 record no later than 5 days before the hearing. Any party to a
18 hearing has the right to prohibit the introduction of any
19 evidence at the hearing that has not been disclosed to that
20 party at least 5 days before the hearing. The party requesting
21 a hearing shall not be permitted at the hearing to raise issues
22 that were not raised in the party's initial or amended request,
23 unless otherwise permitted in this Section.

24 (g-55) The school district shall present evidence that the
25 special education needs of the child have been appropriately
26 identified and that the special education program and related
27 services proposed to meet the needs of the child are adequate,
28 appropriate, and available. Any party to the hearing shall have
29 the right to (1) be represented by counsel and be accompanied
30 and advised by individuals with special knowledge or training
31 with respect to the problems of children with disabilities, at
32 the party's own expense; (2) present evidence and confront and
33 cross-examine witnesses; (3) move for the exclusion of
34 witnesses from the hearing until they are called to testify,
35 provided, however, that this provision may not be invoked to
36 exclude the individual designated by a party to assist that

1 party or its representative in the presentation of the case;
2 (4) obtain a written or electronic verbatim record of the
3 proceedings within 30 days of receipt of a written request from
4 the parents by the school district; and (5) obtain a written
5 decision, including findings of fact and conclusions of law,
6 within 10 days after the conclusion of the hearing. If at
7 issue, the school district shall present evidence that it has
8 properly identified and evaluated the nature and severity of
9 the student's suspected or identified disability and that, if
10 the student has been or should have been determined eligible
11 for special education and related services, that it is
12 providing or has offered a free appropriate public education to
13 the student in the least restrictive environment, consistent
14 with procedural safeguards and in accordance with an
15 individualized educational program. At any time prior to the
16 conclusion of the hearing, the impartial due process hearing
17 officer shall have the authority to require additional
18 information and order independent evaluations for the student
19 at the expense of the school district. The State Board of
20 Education and the school district shall share equally the costs
21 of providing a written or electronic verbatim record of the
22 proceedings. Any party may request that the due process hearing
23 officer issue a subpoena to compel the testimony of witnesses
24 or the production of documents relevant to the resolution of
25 the hearing. Whenever a person refuses to comply with any
26 subpoena issued under this Section, the circuit court of the
27 county in which that hearing is pending, on application of the
28 impartial hearing officer or the party requesting the issuance
29 of the subpoena, may compel compliance through the contempt
30 powers of the court in the same manner as if the requirements
31 of a subpoena issued by the court had been disobeyed.

32 (h) The impartial hearing officer shall issue a written
33 decision, including findings of fact and conclusions of law,
34 within 10 days after the conclusion of the hearing and mail a
35 copy of the decision to the parents, ~~guardian,~~ or student (if
36 the student requests the hearing), the school district, the

1 director of special education, legal representatives of the
2 parties, and the State Board of Education. Unless the hearing
3 officer has granted specific extensions of time at the request
4 of a party, a final decision, including the clarification of a
5 decision requested under this subsection, shall be reached and
6 mailed to the parties named above not later than 45 days after
7 the initiation of the timeline for conducting the hearing, as
8 described in subsection (g-35) of this Section ~~request for~~
9 ~~hearing is received by the school district, public agency, or~~
10 ~~the State Board of Education, whichever is sooner.~~ The decision
11 shall specify the educational and related services that shall
12 be provided to the student in accordance with the student's
13 needs and the timeline for which the school district shall
14 submit evidence to the State Board of Education to demonstrate
15 compliance with the hearing officer's decision in the event
16 that the decision orders the school district to undertake
17 corrective action. The hearing officer shall retain
18 jurisdiction for the sole purpose of considering a request for
19 clarification of the final decision submitted in writing by a
20 party to the impartial hearing officer within 5 days after
21 receipt of the decision. A copy of the request for
22 clarification shall specify the portions of the decision for
23 which clarification is sought and shall be mailed to all
24 parties of record and to the State Board of Education. The
25 request shall operate to stay implementation of those portions
26 of the decision for which clarification is sought, pending
27 action on the request by the hearing officer, unless the
28 parties otherwise agree. The hearing officer shall issue a
29 clarification of the specified portion of the decision or issue
30 a partial or full denial of the request in writing within 10
31 days of receipt of the request and mail copies to all parties
32 to whom the decision was mailed. This subsection does not
33 permit a party to request, or authorize a hearing officer to
34 entertain, reconsideration of the decision itself. The statute
35 of limitations for seeking review of the decision shall be
36 tolled from the date the request is submitted until the date

1 the hearing officer acts upon the request. ~~Upon the filing of a~~
2 ~~civil action pursuant to subsection (i) of this Section, the~~
3 ~~hearing officer shall no longer exercise jurisdiction over the~~
4 ~~case.~~ The hearing officer's decision shall be binding upon the
5 school district and the parents ~~or guardian~~ unless a civil
6 action is commenced.

7 (i) Any party to an impartial due process hearing aggrieved
8 by the final written decision of the impartial due process
9 hearing officer shall have the right to commence a civil action
10 with respect to the issues presented in the impartial due
11 process hearing. That civil action shall be brought in any
12 court of competent jurisdiction within 90 ~~120~~ days after a copy
13 of the decision of the impartial due process hearing officer is
14 mailed to the party as provided in subsection (h). The civil
15 action authorized by this subsection shall not be exclusive of
16 any rights or causes of action otherwise available. The
17 commencement of a civil action under this subsection shall
18 operate as a supersedeas. In any action brought under this
19 subsection the Court shall receive the records of the impartial
20 due process hearing, shall hear additional evidence at the
21 request of a party, and, basing its decision on the
22 preponderance of the evidence, shall grant such relief as the
23 court determines is appropriate. In any instance where a school
24 district willfully disregards applicable regulations or
25 statutes regarding a child covered by this Article, and which
26 disregard has been detrimental to the child, the school
27 district shall be liable for any reasonable attorney's fees
28 incurred by the parent ~~or guardian~~ in connection with
29 proceedings under this Section.

30 (j) During the pendency of any administrative or judicial
31 proceeding conducted pursuant to this Section, unless the
32 school district and the parents ~~or guardian~~ of the student
33 otherwise agree, the student shall remain in his or her present
34 educational placement and continue in his or her present
35 eligibility status and special education and related services,
36 if any. If the hearing officer orders a change in the

1 eligibility status, educational placement, or special
2 education and related services of the student, that change
3 shall not be implemented until 30 days have elapsed following
4 the date the hearing officer's decision is mailed to the
5 parties in order to allow any party aggrieved by the decision
6 to commence a civil action to stay implementation of the
7 decision. If applying for initial admission to the school
8 district, the student shall, with the consent of the parents ~~or~~
9 ~~guardian~~, be placed in the school district program until all
10 such proceedings have been completed. The costs for any special
11 education and related services or placement incurred following
12 60 school days after the initial request for evaluation shall
13 be borne by the school district if the services or placement is
14 in accordance with the final determination as to the special
15 education and related services or placement that must be
16 provided to the child, provided that during that 60 day period
17 there have been no delays caused by the child's parent ~~or~~
18 ~~guardian~~.

19 (k) Whenever the parents ~~or guardian~~ of a child of the type
20 described in Section 14-1.02 are not known, are unavailable, or
21 the child is a ward of the State, a person shall be assigned to
22 serve as surrogate parent for the child in matters relating to
23 the identification, evaluation, and educational placement of
24 the child and the provision of a free appropriate public
25 education to the child. Persons shall be assigned as surrogate
26 parents by the State Superintendent of Education. The State
27 Board of Education shall promulgate rules and regulations
28 establishing qualifications of those persons and their
29 responsibilities and the procedures to be followed in making
30 assignments of persons as surrogate parents. Surrogate parents
31 shall not be employees of the school district, an agency
32 created by joint agreement under Section 10-22.31, an agency
33 involved in the education or care of the student, or the State
34 Board of Education. Services of any person assigned as
35 surrogate parent shall terminate if the parent ~~or guardian~~
36 becomes available unless otherwise requested by the parents ~~or~~

1 ~~guardian~~. The assignment of a person as surrogate parent at no
2 time supersedes, terminates, or suspends the parents' ~~or~~
3 ~~guardians'~~ legal authority relative to the child. Any person
4 participating in good faith as surrogate parent on behalf of
5 the child before school officials or a hearing officer shall
6 have immunity from civil or criminal liability that otherwise
7 might result by reason of that participation, except in cases
8 of willful and wanton misconduct.

9 (l) At all stages of the hearing the hearing officer shall
10 require that interpreters be made available by the school
11 district for persons who are deaf or for persons whose normally
12 spoken language is other than English.

13 (m) If any provision of this Section or its application to
14 any person or circumstance is held invalid, the invalidity of
15 that provision or application does not affect other provisions
16 or applications of the Section that can be given effect without
17 the invalid application or provision, and to this end the
18 provisions of this Section are severable, unless otherwise
19 provided by this Section.

20 (Source: P.A. 89-652, eff. 8-14-96.)

21 (105 ILCS 5/14-8.02b)

22 Sec. 14-8.02b. Expedited Hearings.

23 (a) The changes made to this Section by this amendatory Act
24 of the 94th General Assembly shall apply to all expedited
25 hearings requested on or after the effective date of this
26 amendatory Act of the 94th General Assembly.

27 (b) Unless otherwise provided by this Section, the
28 provisions of Section 14-8.02a are applicable to this Section.
29 The State Board of Education shall provide for the conduct of
30 expedited hearings in accordance with the Individuals with
31 Disabilities Education Act, Public Law 108-446 ~~105-17~~, 20 USC
32 Sections 1400 et seq. (hereafter IDEA).

33 (c) An expedited hearing may be requested by:

34 (i) a parent ~~or guardian~~ or student if the student is
35 at least 18 years of age or emancipated, if there is a

1 disagreement with regard to a determination that the
2 student's behavior was not a manifestation of the student's
3 disability, or if there is a disagreement regarding the
4 district's decision to move the student to an interim
5 alternative educational setting for behavior at school, on
6 school premises, or at a school function involving a weapon
7 or ~~and~~ drug or for behavior at school, on school premises,
8 or at a school function involving the infliction of serious
9 bodily injury by the student, ~~violation~~ as defined by IDEA
10 pursuant to Section 615(k)(1)(G) ~~615(k)(1)(A)(ii)~~; and

11 (ii) a school district, if school personnel believe
12 ~~maintain~~ that maintaining the current placement of the
13 student is substantially likely to result in injury to the
14 student or others pursuant to Section 615(k)(3)(A) of IDEA
15 ~~it is dangerous for the student to be in the current~~
16 ~~placement (i.e. placement prior to removal to the interim~~
17 ~~alternative education setting) during the pendency of a due~~
18 ~~process hearing pursuant to Section 615(K)(F) of IDEA.~~

19 (d) A school district shall make a request in writing to
20 the State Board of Education and promptly mail a copy of the
21 request to the parents ~~or guardian~~ of the student at the last
22 known address of the parents ~~or guardian~~. A request made by the
23 parent, ~~guardian,~~ or student shall be made in writing to the
24 superintendent of the school district in which the student
25 resides, who shall forward the request to the State Board of
26 Education within one business day of receipt of the request.
27 Upon receipt of the request, the State Board of Education shall
28 appoint a due process hearing officer using a rotating
29 appointment system and shall notify the hearing officer of his
30 or her appointment.

31 (e) A request for an expedited hearing initiated by a
32 district for the sole purpose of moving a student from his or
33 her current placement to an interim alternative educational
34 setting because of dangerous misconduct must be accompanied by
35 all documentation that substantiates the district's position
36 that maintaining the student in his or her current placement is

1 substantially likely to result in injury to the student or to
2 others. Also, the documentation shall include written
3 statements of (1) whether the district is represented by legal
4 counsel or intends to retain legal counsel; (2) the matters the
5 district believes to be in dispute in the case and the specific
6 relief being sought; and (3) the names of all witnesses the
7 district intends to call to testify at the hearing.

8 (f) An expedited hearing requested by the student's parent
9 ~~or guardian~~ to challenge the removal of the student from his or
10 her current placement to an interim alternative educational
11 setting or a manifestation determination made by the district
12 as described in IDEA shall include a written statement as to
13 the reason the parent ~~or guardian~~ believes that the action
14 taken by the district is not supported by substantial evidence
15 and all relevant documentation in the parent's ~~or guardian's~~
16 possession. Also, the documentation shall include written
17 statements of (1) whether the parent ~~or guardian~~ is represented
18 by legal counsel or intends to retain legal counsel; (2) the
19 matters the parent ~~or guardian~~ believes to be in dispute in the
20 case and the specific relief being sought; and (3) the names of
21 all witnesses the parent ~~or guardian~~ intends to call to testify
22 at the hearing.

23 (g) Except as otherwise described in this subsection (g),
24 the school district shall be required to convene the resolution
25 meeting described in subsection (g-20) of Section 14-8.02a of
26 this Code unless the parties choose to utilize mediation in
27 place of the resolution meeting or waive the resolution meeting
28 in accordance with procedures described in subsection (g-30) of
29 Section 14-8.02a of this Code. The resolution meeting shall be
30 convened within 7 days after the date that the expedited
31 hearing request is received by the district.

32 (h) The hearing officer shall not initiate or participate
33 in any ex parte communications with the parties, except to
34 arrange the date, time, and location of the expedited hearing.
35 The hearing officer shall contact the parties within 5 days ~~one~~
36 ~~day~~ after appointment and set a hearing date which shall be no

1 earlier than 15 calendar days following the school district's
2 receipt of the expedited hearing request or upon completion of
3 the resolution meeting, if earlier, and no later than 20 school
4 4 days after receipt of the expedited hearing request
5 ~~contacting parties~~. The hearing officer shall set a date no
6 less than 2 business days prior to the date of the expedited
7 hearing for the parties to exchange documentation and a list of
8 witnesses. The non-requesting party shall not be required to
9 submit a written response to the expedited hearing request. The
10 parties may request mediation. The mediation shall not delay
11 the timeline set by the hearing officer for conducting the
12 expedited hearing. The length of the hearing shall not exceed 2
13 days unless good cause is shown. Good cause shall be determined
14 by the hearing officer in his or her sole discretion and may
15 include the unavailability of a party or witness to attend the
16 scheduled hearing. ~~disclose and provide to each party any~~
17 ~~evidence which is intended to be submitted into the hearing~~
18 ~~record no later than 2 days before the hearing. The length of~~
19 ~~the hearing shall not exceed 2 days unless good cause is shown.~~

20 (i) Any party to the hearing shall have the right to (1) be
21 represented by counsel and be accompanied and advised by
22 individuals with special knowledge or training with respect to
23 the problems of children with disabilities, at the party's own
24 expense; (2) present evidence and confront and cross-examine
25 witnesses; (3) move for the exclusion of witnesses from the
26 hearing until they are called to testify, provided, however,
27 that this provision may not be invoked to exclude the
28 individual designated by a party to assist that party or its
29 representative in the presentation of the case; (4) in accord
30 with the provisions of subsection (g-55) ~~(g)~~ of Section
31 14-8.02a, obtain a written or electronic verbatim record of the
32 proceedings; and (5) obtain a written decision, including
33 findings of fact and conclusions of law, within 10 school ~~2~~
34 days after the conclusion of the hearing.

35 (j) The State Board of Education and the school district
36 shall share equally the costs of providing a written or

1 electronic verbatim record of the proceedings. Any party may
2 request that the hearing officer issue a subpoena to compel the
3 testimony of witnesses or the production of documents relevant
4 to the resolution of the hearing. Whenever a person refuses to
5 comply with any subpoena issued under this Section, the circuit
6 court of the county in which that hearing is pending, on
7 application of the impartial hearing officer or the party
8 requesting the issuance of the subpoena, may compel compliance
9 through the contempt powers of the court in the same manner as
10 if the requirements of a subpoena issued by the court had been
11 disobeyed.

12 (k) The impartial hearing officer shall issue a final
13 written decision, including findings of fact and conclusions of
14 law, within 10 school ~~2~~ days after the conclusion of the
15 hearing and mail a copy of the decision to the parents,~~7~~
16 ~~guardian,~~ or student (if the student requests the hearing), the
17 school district, the director of special education, legal
18 representatives of the parties, and the State Board of
19 Education.

20 (l) The hearing officer presiding over the expedited
21 hearing shall hear only that issue or issues identified by IDEA
22 as proper for expedited hearings, leaving all other issues to
23 be heard under a separate request to be initiated and processed
24 in accordance with the hearing procedures provided for in this
25 Article and in accordance with the implementing regulations.

26 (Source: P.A. 90-566, eff. 1-2-98.)

27 (105 ILCS 5/14-8.02c new)

28 Sec. 14-8.02c. Due process hearing officers.

29 (a) The State Board of Education shall establish a corps of
30 hearing officers in accordance with this Section and may, with
31 the advice and approval of the Advisory Council on Education of
32 Children with Disabilities, adopt rules consistent with this
33 Section to establish the qualifications of and application
34 process for hearing officers.

35 (b) Hearing officers must, at a minimum, (i) possess a

1 master's or doctor's degree in education or another field
2 related to disability issues or a juris doctor degree; (ii)
3 have knowledge of and the ability to understand the
4 requirements of the federal Individuals with Disabilities
5 Education Act, Article 14 of this Code, the implementation of
6 rules or regulations of these federal and State statutes, and
7 the legal interpretation of the statutes, rules, and
8 regulations by federal and State courts; (iii) have the
9 knowledge and ability to conduct hearings in accordance with
10 appropriate, standard, legal practice; and (iv) have the
11 knowledge and ability to render and write decisions in
12 accordance with appropriate, standard, legal practice. Current
13 employees of the State Board of Education, school districts,
14 special education cooperatives, regional service areas or
15 centers, regional educational cooperatives, State-operated
16 elementary and secondary schools, or private providers of
17 special education facilities or programs may not serve as
18 hearing officers.

19 (c) If, at any time, the State Board of Education
20 determines that additional hearing officers are needed, the
21 State Board of Education shall recruit hearing officer
22 candidates who meet the criteria set forth in subsection (b) of
23 this Section.

24 (d) Candidates shall be screened by a 7-member Screening
25 Committee consisting of the following: the Attorney General or
26 his or her designee; the State Superintendent of Education or
27 his or her designee; 3 members appointed by the State
28 Superintendent of Education, one of whom shall be a parent of
29 an individual who is or at one time was eligible to receive
30 special education and related services in an Illinois school
31 district, another of whom shall be a director of special
32 education for an Illinois school district or special education
33 joint agreement, and the other of whom shall be an adult with a
34 disability; and 2 members appointed by the Attorney General,
35 one of whom shall be a parent of an individual who is or at one
36 time was eligible to receive special education and related

1 services in an Illinois school district and the other of whom
2 shall be an experienced special education hearing officer who
3 is not a candidate for appointment under this Section. The
4 chairperson of the Advisory Council on Education of Children
5 with Disabilities or his or her designee shall serve on the
6 Screening Committee as an ex-officio, non-voting member.
7 Appointments and reappointments to the Screening Committee
8 shall be for terms of 3 years. In the event that a member
9 vacates a seat on the Screening Committee prior to the
10 expiration of his or her term, a new member shall be appointed,
11 shall serve the balance of the vacating member's term, and
12 shall be eligible for subsequent reappointment. The Screening
13 Committee shall elect a chairperson from among its voting
14 members. Members of the Screening Committee shall serve without
15 compensation but shall be reimbursed by the State Board of
16 Education for their reasonable expenses. The Screening
17 Committee shall review hearing officer applications and
18 supporting information, interview candidates, and recommend
19 candidates to the Advisory Council on Education of Children
20 with Disabilities based upon objective criteria the Screening
21 Committee develops and makes available to the public. All
22 discussions and deliberations of the Screening Committee and
23 Advisory Council referenced anywhere in this Section
24 pertaining to the review of applications of hearing officer
25 candidates, the interviewing of hearing officer candidates,
26 the recommendation of hearing officer candidates for
27 appointment, and the recommendation of hearing officers for
28 reappointment are excepted from the requirements of the Open
29 Meetings Act, pursuant to item (15) of subsection (c) of
30 Section 2 of the Open Meetings Act.

31 (e) All hearing officer candidates recommended to the
32 Advisory Council on Education of Children with Disabilities
33 shall successfully complete initial training, as established
34 by the contract between the State Board of Education and the
35 training entity, as described in subsection (f), in order to be
36 eligible to serve as an impartial due process hearing officer.

1 The training shall include, at a minimum, instruction in
2 federal and State law, rules, and regulations, federal
3 regulatory interpretations and State and federal court
4 decisions regarding special education and relevant general
5 educational issues, diagnostic procedures, information about
6 disabilities, instruction on conducting effective and
7 impartial hearings in accordance with appropriate, standard,
8 legal practice, and instruction in rendering and writing
9 hearing decisions in accordance with appropriate, standard,
10 legal practice. The training must be conducted in an unbiased
11 manner by educational and legal experts, including qualified
12 individuals from outside the public educational system. Upon
13 the completion of the initial training, the Advisory Council on
14 Education of Children with Disabilities, applying objective
15 selection criteria it has developed and made available to the
16 public, shall go into executive session and select the number
17 of hearing officers deemed necessary by the State Board of
18 Education from those candidates who have successfully
19 completed the initial training. Upon selecting the candidates,
20 the Advisory Council shall forward its recommendations to the
21 State Superintendent of Education for final selection. The
22 hearing officers appointed by the State Superintendent of
23 Education shall serve an initial term of one year, subject to
24 any earlier permissible termination by the State Board of
25 Education.

26 (f) The State Board of Education shall, through a
27 competitive application process, enter into a contract with an
28 outside entity to establish and conduct mandatory training
29 programs for hearing officers. The State Board of Education
30 shall also, through a competitive application process, enter
31 into a contract with an outside entity, other than the entity
32 providing mandatory training, to conduct an annual evaluation
33 of each hearing officer and to investigate complaints against
34 hearing officers, in accordance with procedures established by
35 the State Board of Education in consultation with the Screening
36 Committee. The invitation for applications shall set forth

1 minimum qualifications for eligible applicants. Each contract
2 under this subsection (f) may be renewed on an annual basis,
3 subject to appropriation. The State Board of Education shall
4 conduct a new competitive application process at least once
5 every 3 years after the initial contract is granted. The
6 Screening Committee shall review the training proposals and
7 evaluation and investigation proposals and forward them, with
8 recommendations in rank order, to the State Board of Education.

9 (g) The evaluation and investigation entity described in
10 subsection (f) of this Section shall conduct an annual written
11 evaluation of each hearing officer and provide the evaluation
12 to the Screening Committee for its consideration in the
13 reappointment process. The evaluation shall include a review of
14 written decisions and any communications regarding a hearing
15 officer's conduct and performance by participants in impartial
16 due process hearings and their representatives. Each hearing
17 officer shall be provided with a copy of his or her written
18 evaluation report and shall have an opportunity, within 30 days
19 after receipt, to review the evaluation with the evaluation and
20 investigation entity and submit written comments. The annual
21 evaluation of each hearing officer, along with the hearing
22 officer's written comments, if any, shall be submitted to the
23 Screening Committee for consideration no later than April 1 of
24 each calendar year. The Screening Committee, based on objective
25 criteria and any evaluation reports prepared by the training
26 entity, shall, on an annual basis, recommend whether the
27 hearing officer should be reappointed for a one-year term and
28 shall forward its recommendations to the Advisory Council on
29 Education of Children with Disabilities. The Advisory Council
30 shall go into executive session and shall review the
31 recommendations of the Screening Committee for the purpose of
32 either ratifying or rejecting the recommendations of the
33 Screening Committee. The Advisory Council shall then forward
34 its list of ratified and rejected appointees to the State
35 Superintendent of Education, who shall determine the final
36 selection of hearing officers for reappointment. Each

1 reappointed hearing officer shall serve a term of one year,
2 subject to any earlier permissible termination by the State
3 Board of Education.

4 (h) Hearing officers shall receive a base annual stipend
5 and per diem allowance for each hearing at a rate established
6 by the State Board of Education. The State Board of Education
7 shall provide hearing officers with access to relevant court
8 decisions, impartial hearing officer decisions with
9 child-specific identifying information deleted, statutory and
10 regulatory changes, and federal regulatory interpretations.
11 The State Board of Education shall index and maintain a
12 reporting system of impartial due process hearing decisions and
13 shall make these decisions available for review by the public
14 after deleting child-specific identifying information.

15 (i) A hearing officer may be terminated by the State Board
16 of Education for just cause if, after written notice is
17 provided to the hearing officer, appropriate timely corrective
18 action is not taken. For purposes of this subsection (i), just
19 cause shall be (1) the failure or refusal to accept assigned
20 cases without good cause; (2) the failure or refusal to fulfill
21 his or her duties as a hearing officer in a timely manner; (3)
22 consistent disregard for applicable laws and rules in the
23 conduct of hearings; (4) consistent failure to conduct himself
24 or herself in a patient, dignified, and courteous manner to
25 parties, witnesses, counsel, and other participants in
26 hearings; (5) the failure to accord parties or their
27 representatives a full and fair opportunity to be heard in
28 matters coming before him or her; (6) violating applicable laws
29 regarding privacy and confidentiality of records or
30 information; (7) manifesting, by words or conduct, bias or
31 prejudice based upon race, sex, religion, disability, or
32 national origin; (8) failure to recuse himself or herself from
33 a hearing in which he or she has a personal, professional, or
34 financial conflict of interest that he or she knew or should
35 have known existed at any time prior to or during the hearing;
36 (9) conviction in any jurisdiction of any felony or of a

1 misdemeanor involving moral turpitude; or (10) falsification
2 of a material fact on his or her application to serve as a
3 hearing officer. In addition, a hearing officer who, as a
4 result of events occurring after appointment, no longer meets
5 the minimum requirements set forth in this Section, shall be
6 disqualified to complete the balance of his or her term.

7 (105 ILCS 5/14-8.02d new)

8 Sec. 14-8.02d. Evaluation of due process hearing system.
9 The State Board of Education shall monitor, review, and
10 evaluate the impartial due process hearing system on a regular
11 basis by a process that includes a review of written decisions
12 and evaluations by participants in impartial due process
13 hearings and their representatives. In conjunction with the
14 Annual State Report on Special Education Performance, the State
15 Board of Education shall submit data on the performance of the
16 due process hearing system, including data on timeliness of
17 hearings and an analysis of the issues and disability
18 categories underlying hearing requests during the period
19 covered by the Annual State Report. The data provided for the
20 Annual State Report must be submitted to the members of the
21 State Board of Education, the State Superintendent of
22 Education, the Advisory Council on Education of Children with
23 Disabilities, and the Screening Committee established under
24 Section 14-8.02c of this Code and must be made available to the
25 public.